

Hogan, Charlotte S.

From: Hogan, Charlotte S.
Sent: Thursday, June 22, 2023 12:22 PM
To: Perloff-Giles, Alexandra
Cc: *** Esperion - GDC Team; Cole, Jeremy P.; Maslar, Amanda (Amy) B.; Marino, Elizabeth J.; Citera, Toni-Ann
Subject: RE: Esperion v. DSE | 26(f) Report

Lexie,

We received your draft and can already tell Esperion has gone well beyond the purpose and scope of the 26(f) report to try to argue the merits of the case.

As one example, the first section of the report is titled "Subjects on Which Discovery Might Be Needed." Instead of listing the subjects as we did, Esperion goes on for pages to argue the merits of the case, regurgitate themes from its most recent complaint, and further malign our client without any legitimate basis. DSE is not going to sign off on a joint report written this way and with all of the rhetoric included in your draft.

If Esperion can revise its draft consistent with the purpose of the report and focus – as our draft does – on the topics we need to cover, we are happy to revisit a joint filing. Otherwise, we can submit separate reports to the Court.

Please send us a revised draft by 6 pm ET today if Esperion is willing to address the concerns above. If not, we'll prepare accordingly for separate filings tomorrow.

Charlotte

Charlotte S. Hogan
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From: Perloff-Giles, Alexandra <APerloff-Giles@gibsondunn.com>
Sent: Thursday, June 22, 2023 10:59 AM
To: Hogan, Charlotte S. <charlottehogan@jonesday.com>; Cole, Jeremy P. <jpcole@JonesDay.com>; Marino, Elizabeth J. <ejmarino@jonesday.com>; Maslar, Amanda (Amy) B. <amaslar@jonesday.com>; Citera, Toni-Ann <tcitera@JonesDay.com>
Cc: *** Esperion - GDC Team <Esperion@gibsondunn.com>
Subject: RE: Esperion v. DSE | 26(f) Report

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Hi Charlotte,

As agreed, please see attached Plaintiff's portions of the 26(f). We look forward to receiving your portion and are happy to discuss.

Best,

Lexie

Alexandra (Lexie) Perloff-Giles

GIBSON DUNN

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From: Perloff-Giles, Alexandra <APerloff-Giles@gibsondunn.com>

Sent: Wednesday, June 21, 2023 7:21 PM

To: charlottehogan@jonesday.com; Cole, Jeremy P. <jpcole@JonesDay.com>; Marino, Elizabeth J. <ejmarino@jonesday.com>; Maslar, Amanda (Amy) B. <amaslar@jonesday.com>; Citera, Toni-Ann <tcitera@JonesDay.com>

Cc: *** Esperion - GDC Team <Esperion@gibsondunn.com>

Subject: Esperion v. DSE | 26(f) Report

Hi Charlotte,

We haven't been in touch before but I am one of the other attorneys on the GDC team. It's nice to meet you by email.

I think we are largely aligned. In the 26(f) conference report template that was exchanged (attached again for convenience), there is space for Plaintiff's position and Defendant's position on Topic A (Subjects on which discovery might be needed), Topic C (Case schedule), and Topic E (Changes to limitations on discovery). We believe those sections are the best place for the parties to advocate for their respective proposals and plan to send you a version of that document with our positions filled in tomorrow so that, as you say, both parties' proposals are presented in the report. We don't think it's necessary to impose artificial length restrictions. We also plan to attach our proposed case management plan, using Judge Ramos's template, for the convenience of the Court, and we will send that to you tomorrow as well.

Best,

Lexie

p.s. For convenience, we have created a listserv that you can use going forward to contact our team, rather than needing to add individual email addresses: Esperion@gibsondunn.com.

Alexandra (Lexie) Perloff-Giles

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Sent: Wednesday, June 21, 2023 11:05 AM
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Subject: Esperion v. DSE | 26(f) Report

[WARNING: External Email]

Grace,

Before exchanging our draft 26(f) reports tomorrow, we wanted to confirm where (in which document) the parties will advocate for their respective proposed schedules. We are fine with each party including a one-page explanation in the 26(f) report itself, following a chart that lays out the different schedules side-by-side.

Please let us know if that is agreeable to Esperion.

Thanks,
Charlotte

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